

# Key Vote: “YES” on Disapproving the Stream Protection Rule (H.J.Res. 38)

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On Wednesday, the House of Representatives will vote on [H.J.Res. 38](#), a resolution disapproving of the rule submitted by the Department of the Interior’s Office of Surface Mining (OSM) known as the Stream Protection Rule (SPR). Offered by Representatives Bill Johnson (R-OH), Evan Jenkins (R-WV) and David McKinley (R-WV), this resolution would ensure that final SPR has no force or effect, and that OSM cannot issue a rule that is substantially the same without subsequent authorization from Congress.

While initially proposed in 2008, the rule wasn’t finalized until December 19, 2016. During the intervening time, The Heritage Foundation wrote extensively about the profoundly negative impact this rule would have on the coal mining industry. In his paper [The Assault on Coal and American Consumers](#), Heritage Foundation scholar Nick Loris writes:

“According to the OSM’s own projections, the proposed rule could eliminate 10,749 jobs in Appalachia. The new rule would impose additional permitting and reporting requirements and restrict various mining activities. The rewritten rule also has several serious problems. It only vaguely defines permit requirements, monitoring, and stream classifications, which it applies to both surface and underground mining. It removes flexibility in how companies reclaim mine sites, for instance by requiring reforestation even though wildlife organizations are working with the coal industry to provide grassland habitats for a wide range of species. Furthermore, it ignores regional differences and the efficient state regulatory work that manages those differences.”

Furthermore, Rep. Rob Bishop (R-UT), Chairman of the [House Natural Resources Committee](#), said that:

“This rule is the perfect candidate for congressional repeal. It is an abuse of executive power and the unelected bureaucracy expurgated states from the rule-writing process before jamming it through in the eleventh hour. The sheer economic impact of this rewrite of over 400 regulations is devastating for coal communities and, if allowed to proceed, an utter disaster for existing regulatory processes.”

Under a law known as the [Congressional Review Act](#) (CRA), Congress has the power to review regulations issued by Executive Branch agencies, such as the OSM, and even revoke the regulations through a resolution of disapproval. Once the disapproval resolution is passed by both the House and Senate, and signed by the President, the regulation has no more effect and cannot be brought back by any future administration absent specific authorization by Congress.

Additionally, passage of CRAs in the Senate only requires a simple majority vote and is therefore not subject to the filibuster. This makes the CRA a perfect tool for overturning many of former President Obama's burdensome regulations. As Daren Bakst and James L. Gattuso from The Heritage Foundation have written:

“Both Congress and the President will have an opportunity in 2017 to roll back costly new rules that have been and are continuing to be imposed on the American people by the outgoing Administration. One powerful tool they can use to accomplish this task is the Congressional Review Act. This long-neglected tool can provide Congress with the power to swiftly remove months of Obama Administration rules from the books and to help ensure that they do not come back. Congress should not hesitate to use the CRA extensively.”

Using the CRA to nullify the job-killing Stream Protection Rule is a good first step towards the extensive use that Congressional Republicans should make of this legislative tool — used successfully just one time since its creation in 1996 — to cancel excessive regulations.

**Heritage Action supports H.J.Res. 38 and will include it as a key vote on our legislative scorecard.**

**Related:**

[WSJ: A GOP Regulatory Game Changer](#)

[The Assault on Coal and American Consumers](#)

[2017 House Interior and Environment Bill Makes Policy Strides, Still Spends Too Much](#)  
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